

## Guest editorial: Judging the judges

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0 COMMENTS

Park City residents will have the opportunity on Tuesday of voting whether to retain a number of Utah state judges, including Judge Ryan Harris, who serves in Summit, Salt Lake, and Tooele Counties, and presided over the lawsuit between Park City Mountain Resort and Talisker Land Holdings, LLC. As one recent article in the Park Record suggested [PCMR v. Talisker: the Judge Faces Voters on Election Day], "[i]f voters are unhappy with the judge, they could sign a de facto eviction order against Harris on Election Day." A clever turn of phrase, but this statement suggests that voters should not vote to retain a judge where they take issue with the outcome in a specific case. We disagree. Instead, we urge voters to take a different, more principled approach.

As citizens, we understand that the rule of law involves a delicate balance of powers between our three branches of government: the legislative branch, which makes the law; the executive branch, which enforces it; and the judicial branch, which interprets and applies the law. Utah's Code of Judicial Conduct points out that "The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law.

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"Accordingly, a judge should be evaluated upon an objective analysis of his or her legal ability, integrity, and impartiality, rather than voting based upon whether they are unhappy with a particular decision or, as in the PCMR v. Talisker case, the outcome settled upon by the parties themselves.

But how should we judge a judge? In our view, voters should consider a judge's legal ability, integrity, temperament, and commitment to procedural fairness and the rule of law, in the cumulative context of the judge's work. We suggest consideration of more objective information that may assist you in making your decision in the voting booth: the assessment of The Park Record's editorial board, which includes the candid feedback of a lawyer who appeared before Judge Harris in the PCMR case, and his judicial performance evaluations.

The September 12, 2014 Park Record editorial in the immediate aftermath of the settlement of the ski resort case referred to Judge Harris's "Solomon-like wisdom" and his "hewing close to Utah's strict lease laws." One of the lawyers in the PCMR/ Talisker case quoted in The Park Record editorial also concluded: "Harris showed that justice is best served when everyone is treated equally under the law." The editorial continued, "There are probably many lessons to be gained from the high-drama dispute that dominated Park City this summer. But the most salient one may have less to do with the importance of the town's ski areas than a perceptive judge's admonishment that we all have to work together to succeed."

It is also very important to highlight that the Utah Judicial Performance Evaluation Commission — using data drawn from surveys of attorneys who appeared before him, jurors, and court staff — unanimously recommended Judge Harris's retention. Judge Harris scored higher than the average of his district court peers in all survey categories. The complete report regarding several Utah judges, including Judge Harris, can be accessed at [www.judges.utah.gov](http://www.judges.utah.gov) (http://www.judges.utah.gov).

We realize that sometimes a particular judicial decision doesn't align with popular sentiment. Still, we should retain and support independent judges who decide cases based on the facts presented and the applicable law. The Judiciary is critical to our system of government, and it is neither fair nor efficient to make our retention decisions based upon whether we disagree with a decision that may have been made by a judge in a particular case.

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For the above reasons, the Park City Bar Association joins the Utah Judicial Performance Evaluation Commission and recommends the retention of Judge Harris on Tuesday.

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